

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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LEXINGTON INSURANCE COMPANY and TRAVELERS
PROPERTY CASUALTY COMPANY OF AMERICA as
subrogees of Jones Lang LaSalle Management Services, Inc.,

Case No.: 07 CV 9737
(GBD (THK))

Plaintiffs,

-against-

**ANSWER TO
CROSS-CLAIMS**

LOCHINVAR CORPORATION, AMBASSADOR
CONSTRUCTION CO., INC., F. DIGIACOMO & SONS,
INC., S. DIGIACOMO & SON, INC. and MANHATTAN
MECHANICAL SERVICE, INC.

Defendants.

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LOCHINVAR CORPORATION,

Third-Party Plaintiffs,

-against-

SOUTH ERIE PRODUCTION COMPANY d/b/a SEPCO
ERIE,

Third-Party Defendants.

-----X

Defendant, **S. DIGIACOMO & SON, INC.**, by its attorneys, FRENCH & RAFTER,
LLP, as and for its Answer to Defendant **SOUTH ERIE PRODUCTION COMPANY d/b/a
SEPCO ERIE'S** Cross-Claims, alleges as follows:

AS AND FOR A RESPONSE TO THE FIRST CROSS-CLAIM

1. Denies the allegations contained in paragraph designated "17".

**AS AND FOR A FIRST CROSS-CLAIM AGAINST
CO-DEFENDANTS LOCHINVAR CORPORATION,
AMBASSADOR CONSTRUCTION CO., INC., F. DIGIACOMO,
AND MANHATTAN MECHANICAL SERVICE, INC.,
THIS ANSWERING DEFENDANT ALLEGES AS FOLLOWS**

2. That if Plaintiffs sustained the damages in the manner and at the time and place alleged, and if it is found that the answering Defendant, **S. DiGiacomo & Son, Inc.** is liable to Plaintiffs herein, all of which is specifically denied, then said answering Defendant, on the basis of apportionment of responsibility for the alleged occurrence, is entitled to contribution from Co-Defendants, Lochinvar Corporation, Ambassador Construction Co., Inc., F. DiGiacomo, and Manhattan Mechanical Service, Inc., for any verdict or judgment that Plaintiffs may recover against the answering Defendant.

**AS AND FOR A SECOND CROSS-CLAIM AGAINST CO-DEFENDANTS
CO-DEFENDANTS LOCHINVAR CORPORATION,
AMBASSADOR CONSTRUCTION CO., INC., F. DIGIACOMO,
AND MANHATTAN MECHANICAL SERVICE, INC.,
THIS ANSWERING DEFENDANT ALLEGES AS FOLLOWS**

3. That if Plaintiffs sustained the damages in the manner and at the time and place alleged, and if it is found that the answering Defendant, **S. DiGiacomo & Son, Inc.** is liable herein, all of which is specifically denied, then said answering Defendant, on the basis of common-law indemnification, is entitled to indemnification from and judgment over and against Co-Defendants, - Lochinvar Corporation, Ambassador Construction Co., Inc., F. DiGiacomo, and Manhattan Mechanical Service, Inc., for any verdict or judgment that may be recovered against the answering Defendant.

WHEREFORE, Defendant **S. DIGIACOMO & SON, INC.** demands judgment dismissing the Cross-Claim of Third-Party Defendant **SOUTH ERIE PRODUCTION COMPANY d/b/a**

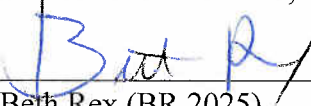
SEPCO ERIE, of this action and further demands that in the event said answering Defendant is found liable to Plaintiffs herein, then said answering Defendant on the basis of apportionment of responsibility and/or the basis of common law indemnification has judgment over and against Co-Defendants, Lochinvar Corporation, Ambassador Construction Co., Inc., F. DiGiacomo, Manhattan Mechanical Service, Inc., and South Erie Production Company d/b/a SEPCO Erie, for all or part of any verdict or judgment against said answering Defendant, together with the costs and disbursements of this action.

Dated: New York, New York
August 27, 2008

Yours, etc.,

FRENCH & RAFTER, LLP

BY:


Beth Rex (BR 2025)

Attorneys for Defendant

S. DiGiacomo & Son, Inc.

29 Broadway, 27th Floor

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(212) 797-3544

File No.: 8400.1147

TO:

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AFFIDAVIT OF SERVICE

STATE OF NEW YORK)
)ss:
COUNTY OF NEW YORK)

SANDY PEÑA, being duly sworn, deposes and says:

That I am not a party to the within action, am over 18 years of age and reside in Queens County, New York.

That on August 27, 2008, deponent served the within **ANSWER TO CROSS-CLAIMS** upon the attorneys and parties listed below by United States prepaid mail by placing same in a mailbox in the State of New York to:

Michael B. Golden (MG-0633)
Attorneys for Plaintiffs
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Manhattan Mechanical Services, Inc.
One Battery Park Plaza, 4th Floor
New York, New York 10004



SANDY PEÑA

Sworn to before me this
27TH day of August, 2008


NOTARY PUBLIC

BETH REX
Notary Public, State of New York
NO. 31-4928883
Qualified in New York County
Commission Expires April 4, 20 10